

## **Assembly Bill No. 199**

### **CHAPTER 186**

An act to amend Section 12439 of, and to repeal Section 15814.45 of, the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2007. Filed with  
Secretary of State August 24, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 199, Committee on Budget. State government.

(1) Existing law requires that any state position that is vacant for 6 consecutive monthly pay periods be abolished by the Controller on the following July 1. Amendments to existing law proposed by SB 86 of the 2007–08 Regular Session, if enacted, would, from July 1, 2007, to June 30, 2010, inclusive, instead require any state position that is vacant for 12 consecutive monthly pay periods to be abolished by the Controller on the following July 1.

This bill would delete the amendments to this provision proposed by SB 86, if those amendments are enacted and become effective on or before January 1, 2008.

(2) Existing law requires that new public buildings be models of energy efficiency and be designed, constructed, and equipped with energy efficiency measures, materials, and devices, and that existing buildings be retrofitted to meet specified standards when renovated or remodeled. In addition, certain executive orders require state agencies to implement certain energy and resource efficiency standards in this regard.

A requirement proposed to be added by SB 86 of the 2007–08 Regular Session, if enacted, would provide that any building the state intends to occupy, for which construction commences on and after January 1, 2009, and any renovation to a building the state intends to occupy that commences on or after that date, to be designed, constructed, and operated, to meet, at a minimum, the applicable standards described in the United States Green Building Council's Leadership in Energy and Environmental Design silver rating.

This bill would delete this requirement proposed to be added by SB 86, if that provision is enacted and becomes effective on or before January 1, 2008.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12439 of the Government Code, as amended by Section 10 of Senate Bill 86 of the 2007–08 Regular Session, is amended to read:

12439. (a) Beginning July 1, 2002, any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years.

(b) The Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:

(1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.

(2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.

(3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.

(4) The classification of the position is determined to be hard-to-fill.

(5) Late enactment of the budget causes the department to delay filling the position.

(c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods:

(1) The position is necessary for directly providing 24-hour care in an institution operated by the state.

(2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.

(3) The position is directly involved in services for public health, public safety, or homeland security.

(4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.

(5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.

(6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.

(7) The position is funded entirely from moneys appropriated pursuant to Section 221 of the Food and Agricultural Code, was established with the Controller pursuant to Section 221.1 of the Food and Agricultural Code, and directly responds to unforeseen agricultural circumstances requiring the relative expertise that the position provides.

(d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).

(e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.

(f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.

(g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.

(h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.

(i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.

(j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.

(k) This section shall become operative July 1, 2002.

SEC. 2. Section 15814.45 of the Government Code, as proposed to be added by Section 12 of SB 86 of the 2007–08 Regular Session, is repealed.

SEC. 3. (a) Section 1 of this act shall become operative only if Senate Bill 86 of the 2007-08 Regular Session is enacted and becomes effective on or before January 1, 2008, and amends Section 12439 of the Government Code.

(b) Section 2 of this act shall become operative only if Senate Bill 86 of the 2007-08 Regular Session is enacted and becomes effective on or before January 1, 2008, and adds Section 15814.45 to the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2007 at the earliest possible time, it is necessary that this act take effect immediately.